

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-cv-00156-MOC-WCM

KRISTINA RENE FROST and
GARY ALLEN MAYS,
Individually and as Personal
Representatives of the Estates of
Shawna Rene Mays and
Tristan Allen Mays,

Plaintiffs,

v.

AMSAFE COMMERCIAL
PRODUCTS, INC., AMSAFE, INC.,
TRANSDIGM GROUP, INC., and
SHIELD RESTRAINT SYSTEMS, INC.,

Defendants.

ORDER

This matter came before the Court on April 19, 2023 for a hearing, which was held by videoconference, on (1) “Plaintiffs and Defendants’ Agreed Motion to Extend the April 11 Deadline for Dispositive Motions and Daubert Motions” (the “Motion to Extend,” Doc. 85) and (2) the “Unopposed Motion of Hilliard Martinez Gonzales, LLP, Moss and Colella, and Emily Beeson to Withdraw as Counsel for Plaintiffs” (the “Motion to Withdraw,” Doc. 93)

The following attorneys appeared as counsel for Plaintiffs: Vince Collella, Emily Beeson, Leslie Tyroch, Marion Reilly, Matthew McMullen, and Robert Hilliard. In addition, ethics counsel for the Hilliard Martinez firm

attended. Plaintiffs Kristina Frost and Gary Mays participated individually. Defendants were represented by Toby Schisler and William Starr.

Following the hearing, the undersigned ruled orally on both Motions. This Order memorializes those rulings.

I. The Motion to Withdraw

Through the Motion to Withdraw, all of Plaintiffs' current counsel of record seek leave to withdraw from this matter. Ms. Frost opposes the request in whole; Mr. Mays' statements indicated that he opposes the withdrawal of attorneys associated with the firm of Hilliard, Martinez, Gonzales, LLP, though it was unclear whether he opposes the withdrawal of other counsel.

The Court initially heard from Plaintiffs' attorneys, Plaintiffs, and defense counsel. Plaintiffs' counsel then requested that the Court receive additional information *in camera*. Plaintiffs and defense counsel consented to this request, and it was allowed. Thereafter, the courtroom and the record were sealed and the undersigned heard further from Plaintiffs' counsel and Plaintiffs themselves about the nature of the disputes among them.

Though the Motion to Withdraw comes somewhat late in this litigation, the undersigned concluded, based on the information presented, that the Motion to Withdraw must be granted and it was, therefore, allowed.

II. The Motion to Extend

By the Motion to Extend, the parties jointly request a sixty-day extension to file dispositive and *Daubert* motions. The current and proposed deadlines are:

	Current	Proposed
Motions:	April 11, 2023	June 12, 2023
Trial:	August 7, 2023	

Notably, the Motion to Extend was filed one week before the Motion to Withdraw was submitted.

On April 11, and while the Motion to Extend was pending, Defendants filed a Motion for Summary Judgment as well as a Motion to Exclude Testimony from Plaintiffs' Expert Dr. Daniel Lozano. Docs. 95, 96.¹

Notwithstanding these filings, Defendants advised that they do not expect to file further dispositive motions and do not oppose an extension of the motions deadline, as requested by the Motion to Extend.

In light of the ruling on the Motion to Withdraw, the undersigned concluded that Plaintiffs should be given an opportunity to determine if they wish to obtain substitute counsel or to represent themselves as this matter proceeds. Consequently, the Court granted the Motion to Extend, extended (on

¹ Absent an extension, Plaintiffs' deadline to respond to these motions is April 25, 2023.

its own motion) the deadline for Plaintiffs to respond to Defendants' Motion for Summary Judgment, and continued the trial.

Though not discussed during the April 19 hearing, the undersigned finds that Plaintiffs' deadline to respond to Defendants' Motion to Exclude Testimony from Plaintiffs' Expert Dr. Daniel Lozano should likewise be extended.

Finally, to the extent Plaintiffs wish to retain new counsel to represent them in this case, the undersigned strongly suggests that they attempt to do so as soon as possible.

IT IS THEREFORE ORDERED THAT:

1. The "Unopposed Motion of Hilliard Martinez Gonzales, LLP, Moss and Colella, and Emily Beeson to Withdraw as Counsel for Plaintiffs" (Doc. 93) is **GRANTED**, and A. Vince Colella; Ana Luisa Zabalgaitia; Marion Reilly; Rudy Gonzales, Jr.; Leslie Marie Tyroch; Matthew L. McMullen; and Emily Jeanette Beeson are **WITHDRAWN** as counsel of record for Plaintiffs.
2. "Plaintiffs and Defendants' Agreed Motion to Extend the April 11 Deadline for Dispositive Motions and Daubert Motions" (Doc. 85) is **GRANTED** and the deadline for filings dispositive and *Daubert* motions is **EXTENDED** through and including June 12, 2023.
3. The deadline for Plaintiffs to respond to Defendants' Motion for Summary Judgment (Doc. 95) and Defendants' Motion to Exclude Testimony from

Plaintiffs' Expert Dr. Daniel Lozano (Doc. 96) is **EXTENDED** through and including May 9, 2023.

4. Trial is **RESET** for the term beginning on December 4, 2023.

Signed: April 20, 2023

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

